

Tajuk : 34 . Special provisions applicable to adjusted income from a business.

Tarikh Kuatkuasa :

Tarikh Tamat :

Kuatkuasa :

Kategori : Rujukan Perundangan\Akta Cukai Pendapatan 1967 - Seksyen\PART III - ASCERTAINMENT OF CHARGEABLE INCOME\Chapter 4 - Adjusted income and adjusted loss\

Rencana

Akta Cukai Pendapatan 1967

(Akta 53)

Pindaan Sehingga Akta 719 Tahun 2011

Tarikh Keluaran :

Title : Income Tax Act

Part : PART III - ASCERTAINMENT OF CHARGEABLE INCOME

Chapter : Chapter 4 - Adjusted income and adjusted loss

Section : 34 . Special provisions applicable to adjusted income from a business.

34. (1) In ascertaining the adjusted income of a person from a business for the basis period for a year of assessment, deductions shall be made from the gross income from the business for that period in accordance with the following subsections (the person, business, period and gross income in question being referred to in those subsections as the relevant person, the business, the relevant period and the relevant gross income respectively).

(2) There shall be deducted in the case of any debt as defined in subsection (3)-

(a) if at the end of the relevant period the debt is reasonably estimated in all the circumstances of the case to be wholly irrecoverable, an amount equal to the amount of the debt;

(b) if at the end of the relevant period the debt is reasonably estimated in all the circumstances of the case to be partly irrecoverable, an amount equal to so much of the debt as is estimated to be irrecoverable,

the deduction being in either case reduced by the amount of any deduction made under this subsection in respect of the debt for the basis period for a year of assessment prior to the year of assessment to which the relevant period

Special provisions applicable to adjusted income from a business.
[Am.
Act 274;
Act A643;
Act 476;
Act 497.
Act 631
Act 639
Act 661]

relates.

(3) In subsection (2) "debt" means-

(a) a debt arising in respect of any matter referred to in section 24(1) or in respect of interest of the kind referred to in section 24(5), where the amount of any such debt has been included in the relevant gross income or in the gross income of the relevant person from the business for the basis period for a year of assessment prior to the year of assessment to which the relevant period relates; or

(b) a debt arising in respect of a loan of the kind mentioned in section 24(5) granted in the course of carrying on the business in the relevant period or in the basis period for any such prior year of assessment.

(3A) The reference to the debt which is partly irrecoverable under paragraph (2)(b), shall be deemed, in the case of a bank, to include all interest in respect of a loan or credit facility accrued from the date that such loan or facility is classified as non-performing loan in accordance with the relevant guidelines issued by the Central Bank.

(3B) For the purpose of subsection (3A), "bank" means a bank or a finance company or a banking and finance company licensed or deemed to be licensed under the Banking and Financial Institutions Act 1989 [Act 372] or Islamic Banking Act 1983 [Act 276], or an institution prescribed under the Development Financial Institutions Act 2002 [Act 618]."

History:

Paragraph 34(3A) and 34(3B) inserted by Act 639 of 2004 and have effect for the year of assessment 2001 and subsequent years of assessment.

(4) Where in the relevant period the relevant person has made a contribution to an approved scheme in respect of an employee of his, then-

(a) if the employee's remuneration as determined under the rules, regulations, by-laws or constitution of that scheme for the period for which the contribution is made (that period being a period which coincides with or overlaps the relevant period) is deductible as a whole, or in parts aggregating the whole, in computing the adjusted income from the business for any basis period or periods for a year or years of

assessment in relation to the business, there may be deducted from the relevant gross income an amount equal to the contribution or nineteen per cent of the employee's remuneration as so determined for the period for which the contribution is made, whichever is the less;

History

Paragraph (4)(a) amended by Act 578 of 1998 s9(a), by substituting for the word "seventeen" the word "nineteen", shall have effect for the year of assessment 1998 and subsequent years of assessment.

Paragraph 34(4)(a) amended by Act 544 of 1996 s5, by substituting for the word "sixteen" the word "seventeen", shall have effect for the year of assessment 1996 and subsequent years of assessment.

Paragraph 34(4)(a) amended by Act 513 of 1994 s6(a), by substituting for the word "fifteen" the word "sixteen", shall have effect for the year of assessment 1994 and subsequent years of assessment.

(b) if only a part or parts of that remuneration is or are so deductible, there may be deducted from the relevant gross income an amount equal to so much of the contribution or of that percentage of the remuneration (whichever of those amounts is the less) as bears to the whole of the contribution or to that percentage of the remuneration, as the case may be, the same proportion as that part or the aggregate of those parts, as the case may be, bears to the whole of that remuneration.

(5) Where on the first establishment of a scheme of the kind referred to in subsection (4) a special contribution thereto is made in the relevant period by the relevant person whereby any of his employees engaged in activities relating to the production of the relevant gross income or gross income of the relevant person from the business for the basis period for a year of assessment (that basis period being prior to the relevant period) may qualify for the benefits under that scheme, the Director General may when approving that scheme authorize deductions in respect of that special contribution of such amounts (being amounts which in total are equal to or less than the special contribution) from the gross income of the relevant person from the business for the basis periods for such years of assessment as he thinks fit.

(6) There may be deducted from the relevant gross income-

(a) an amount equal to any payroll tax paid by the relevant person in the relevant period in respect of any remuneration paid by him to any person employed by him in the production of gross income of his from the business;

(b) an amount equal to any turnover tax in respect of the turnover of the business paid by the relevant person in the relevant period;

(c) where any part of the relevant gross income is derived from the working of a mine, such amounts in respect of capital expenditure as may be allowed for the relevant period pursuant to Schedule 2;

History.

Subsection 34(6) amended by Act 476 of 1992 s5(a)(i) , by deleting the word "and" at the end of paragraph (c), shall have effect for the year of assessment 1992 and subsequent years of assessment.

(d) where any part of the relevant gross income is derived from the working of a farm relating to cultivation of crops, an amount equal to any expense (not being an expense which is qualifying expenditure or qualifying agriculture expenditure for the purposes of Schedule 3 or incurred in the acquisition of land or anything growing thereon) incurred by the relevant person in the relevant period in replanting the farm for purposes of cultivation of crops or in effecting any improvement of the farm or any part of the farm in connection with such replanting;

History.

Subsection 34(6) amended by Act 497 of 1993 s4(a), by deleting the word "and" at the end of paragraph (d), shall have effect for the year of assessment 1994 and subsequent years of assessment.

Subsection 34(6) amended by Act 476 of 1992 s5(a)(ii), by substituting for the full stop at the end of paragraph (d) the word "; and", shall have effect for the year of assessment 1992 and subsequent years of assessment.

(e) an amount equal to the amount of expenditure incurred by the relevant person in the relevant period on the provision of any equipment, or on the alteration or renovation of

premises, necessary to assist any disabled person employed by him in the production of gross income of his from the business;

History.

Paragraph 34(6)(e) is amended by Act 683 of 2009 s9(a), by inserting after the words "equipment" the words ", or on the alteration or renovation of premises,".

Paragraph 34(6)(e) amended by Act 513 of 1994 s6(b)(i), by deleting the word "and" at the end of paragraph (e), shall have effect for the year of assessment 1994 and subsequent years of assessment.

Subsection 34(6) amended by Act 497 of 1993 s4(b), by substituting for the full stop at the end of paragraph (e) the punctuation mark and word "; and", shall have effect for the year of assessment 1994 and subsequent years of assessment.

Paragraph 34(6)(e) inserted by Act 476 of 1992 s5(a)(iii), shall have effect for the year of assessment 1992 and subsequent years of assessment.

(f) an amount equal to the expenditure incurred by the relevant person in the relevant period in respect of translation into or publication in the national language of cultural, literary, professional, scientific or technical books approved by the Dewan Bahasa dan Pustaka;

History.

Paragraph 34(6)(f) amended by Act 557 of 1997 s8(a), by deleting the word "and" at the end of the paragraph, shall have effect for year of assessment 1997 and subsequent years of assessment.

Paragraph 34(6)(f) amended by Act 513 of 1994 s6(b)(ii), by substituting for the full stop at the end of paragraph (f) the punctuation mark and word "; and", shall have effect for the year of assessment 1994 and subsequent years of assessment.

Paragraph 34(6)(f) inserted by Act 497 of 1993 s4(c), shall have effect for the year of assessment 1994 and subsequent years of assessment.

(g) an amount equal to the expenditure incurred by the relevant person in the relevant

period on the provision of library facilities which are accessible to the public and in respect of contributions to public libraries and libraries of schools and institutions of higher education:

Provided that the amount that may be deducted shall not exceed one thousand ringgit;

History.

Paragraph 34(6)(g) amended by Act 557 of 1997 s8(b), by substituting for the full stop at the end of the paragraph a semicolon, shall have effect for year of assessment 1997 and subsequent years of assessment.

Paragraph 34(6)(g) inserted by Act 513 of 1994 s6(b)(iii), shall have effect for the year of assessment 1994 and subsequent years of assessment.

(h) an amount equal to the expenditure incurred by the relevant person in the relevant period on the provision of services, public amenities and contributions to a charity or community project pertaining to education, health, housing, infrastructure and information and communication technology, approved by the Minister :

Provided that where a deduction has been made under this paragraph, no further deduction of the same amount shall be allowed under section 44(6);

History.

Paragraph 34(6)(h) amended by Act 608 of 2000 s6(a), by substituting for the words "and infrastructure" the word "infrastructure and information and communication technology", shall have effect for the year of assessment 2001 and subsequent years of assessment.

Paragraph 34(6)(h) amended by Act 591 of 1998 s5, by substituting for the words " relevant authority" the word "Minister", shall have effect for the year of assessment 1999 and subsequent years of assessment.

Paragraph 34(6)(h) inserted by Act 557 of 1997 s8(c), shall have effect for year of assessment 1997 and subsequent years of assessment.

(ha) an amount equal to the expenditure incurred by a company on the provision of infrastructure in relation to its business which is

available for public use, subject to the prior approval of the Minister:

Provided that where a deduction has been made under this paragraph, no further deduction of the same amount shall be allowed under subsection 44(6);

History

Paragraph 34(6)(ha) is inserted by Act 683 of 2007 s 8(b), has effect for the year assessment 2008 and subsequent years of assessment.

(i) an amount equal to the expenditure incurred, not being capital expenditure on land, premises, buildings, structures or works of a permanent nature or on alterations, additions or extensions thereof or in the acquisition of any rights in or over any property, by the relevant person in the relevant period on the provision and maintenance of a child care centre for the benefit of persons employed by him in his business;

History

Paragraph (6)(i) amended by Act 578 of 1998 s9(b), by deleting the word "and" at the end of paragraph (6)(i), shall have effect for the year of assessment 1998 and subsequent years of assessment.

Paragraph 34(6)(i) inserted by Act 557 of 1997 s8(c), shall have effect for year of assessment 1997 and subsequent years of assessment.

(j) an amount equal to the expenditure incurred by the relevant person in the relevant period in establishing and managing a musical or cultural group approved by the Minister;

History.

Paragraph 34(6)(j) amended by Act 608 of 2000 s6(b), by deleting the word "and" at the end of paragraph (j), shall have effect for the year of assessment 2001 and subsequent years of assessment.

Paragraph 34(6)(j) amended by Act 578 of 1998 s9, by substituting for the full stop at the end of paragraph (6)(j) the words "; and", shall have effect for the year of assessment 1998 and subsequent years of assessment.

Paragraph 34(6)(j) inserted by Act 557 of 1997 s8(c), shall have effect for year of assessment 1997 and subsequent years of assessment.

(k) an amount equal to the expenditure incurred by the relevant person in the relevant period for sponsoring any arts, cultural or heritage activity approved by the Ministry of Information, Communication and Culture:

Provided that the amount deducted in respect of expenditure incurred for sponsoring those activities shall not in aggregate exceed five hundred thousand ringgit of which the amount deducted in respect of expenditure incurred in sponsoring foreign arts, cultural or heritage activity shall not exceed two hundred thousand ringgit;

History

Paragraph 34(6)(k) is amended by Act 719 of 2011 section 7, by substituting for the words "Ministry of Culture, Arts and Heritage" the words "Ministry of Information, Communication and Culture", has effect from the year of assessment 2010.

Paragraph 34(6)(k) is substituted by s11, Act 661 of 2006 and shall have effect for the year of assessment 2007 and subsequent years of assessment. Formerly, paragraph 34(6)(k) reads as follows:-

"(k) an amount equal to the expenditure incurred by the relevant person in the relevant period for sponsoring any local or foreign arts or cultural activity approved by the Ministry of Culture, Arts and Tourism:

Provided that the amount deducted in respect of expenditure incurred for sponsoring those activities shall not in aggregate exceed three hundred thousand ringgit of which the amount deducted in respect of expenditure incurred in sponsoring foreign arts or cultural activities shall not exceed two hundred thousand ringgit;"

Paragraph 34(6)(k) amended by Act 631 of 2003 and shall have effect for the year of assessment 2004 and subsequent years of assessment. Formerly, paragraph 34(6)(k) reads as follows:-

"(k) an amount equal to the expenditure incurred by

the relevant person in the relevant period for sponsoring any arts or cultural activity approved by the Ministry of Culture, Arts and Tourism:

Provided that the amount that deducted shall not exceed two hundred thousand ringgit;".

Paragraph 34(6)(k) amended by Act 608 of 2000 s6(c), by substituting for the full stop at the end of the proviso the words "; and", shall have effect for the year of assessment 2001 and subsequent years of assessment.

Paragraph (6)(k) inserted by Act 578 of 1998 s9(d), shall have effect for the year of assessment 1998 and subsequent years of assessment.

(l) an amount equal to the expenditure incurred by the company in the relevant period on the provision of a scholarship to a student for any course of study leading to an award of a diploma, or degree (including a degree at a Masters or Doctorate level) or the equivalent of a diploma or degree undertaken at a higher educational institution established or registered under the laws regulating such establishment or registration in Malaysia or authorised by any order made under section 5A of the Universities and University Colleges Act 1971:

Provided that the scholarship-

(a) shall only be given to a student -

(i) who is receiving full-time instruction at a higher educational institution;

(ii) who has no means of his own; and

(iii) the total monthly income of whose parents or guardian, as the case may be, does not exceed five thousand ringgit; and

(b) shall not include payments other than payments required by such higher educational institution relating to the course of study and educational aids and reasonable cost of living expenses during the student's period of study at such higher educational institution;

History

Paragraph 34(6)(l) amended by Act 619 of 2002 s4(a), by deleting the word "and" at the end of paragraph (l), shall have effect for the year of assessment 2002 and subsequent years of assessment.

Paragraph 34(6)(l) is inserted by Act 608 of 2000 s6(d), shall have effect for the year of assessment 2001 and subsequent years of assessment

(m) an amount equal to the expenditure, not being capital expenditure, incurred by a company in the relevant period for the purpose of obtaining accreditation for a laboratory or as a certification body, as evidenced by a certificate issued by the Department of Standards Malaysia

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by that company in the basis period for the year of assessment in which the certificate is issued;

History

Paragraph 34(6)(m) amended by Act 639 of 2004 and shall have effect for the year of assessment 2004 and subsequent years of assessment. Formerly, it reads as follows:-

(m) an amount equal to the expenditure, not being capital expenditure, incurred by a company in the relevant period for the purposes of-

(i) obtaining certification for recognized quality systems and standards, and *halal* certification, evidenced by a certificate issued by a certification body as determined by the Minister; or

(ii) obtaining accreditation for a laboratory or as a certification body, as evidenced by a certificate issued by the Department of Standards Malaysia:

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by that company in the basis period for the year of assessment in which the certificate is issued;”.

Paragraph 34(6)(m) amended by Act 631 of 2003 and shall have effect for the year of assessment 2004 and subsequent years of assessment. Formerly, it reads as follows:-

(m) an amount equal to the expenditure, not being capital expenditure, incurred by the company in the relevant period for the purposes of obtaining certification for recognized quality systems and standards, and *halal* certification, evidenced by a certificate issued by a certification body as determined by the Minister:

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by the company in the basis period for the year of assessment in which the certificate is issued; and

Paragraph 34(6)(m) amended by Act 619 of 2002 s6(b), by substituting for the full stop at the end of paragraph (m) the words "; and", shall have effect for the year of assessment 2002 and subsequent years of assessment.

Paragraph 34(6)(l) and 34(6)(m) inserted by Act 608 of 2000 s6(d), shall have effect for the year of assessment 2001 and subsequent years of assessment.

(ma) an amount twice the amount of the expenditure, not being capital expenditure, incurred by a company in the relevant period for the purpose of obtaining certification for recognized quality systems and standards, and *halal* certification, evidence by a certificate issued by a certification body as determined by the Minister:

Provided that the expenditure incurred in the relevant period shall be deemed to be incurred by that company in the basis period for the year of assessment in which the certificate is issued.

History

Paragraph 34(6)(ma) inserted by Act 639 of 2004 shall have effect for the year of assessment 2005 and subsequent years of assessment.

(n) an amount equal to the expenditure incurred by a person in the relevant period on the provision of practical training in Malaysia, in relation to his business, to an individual who is-

(i) resident in basis year for a year of assessment; and

(ii) not an employee of that person ;and

History

Paragraph 34(6)(n) inserted by Act 619 of 2002 s4(c), shall have effect for the year of assessment 2002 and subsequent years of assessment.

(o) an amount equal to the expenditure incurred by a company in the relevant period for participating in international standardization activities approved by the Department of Standards Malaysia.

History

Paragraph 34(6)(o) inserted by Act 631 of 2003 and shall have effect for the year of assessment 2004 and subsequent years of assessment.

(7) There may be deducted from the relevant gross income any expenditure, not being capital expenditure incurred on plant, machinery, fixtures, land, premises, buildings, structures or works of a permanent nature or on alterations, additions or extensions thereof or in the acquisition of any rights in or over any property, incurred by the relevant person during the relevant period on scientific research related to the business and directly undertaken by him or on his behalf.

(8) Where any deduction in respect of any matter is capable of being made under this section, no deduction or allowance in respect of that matter shall be made under section 33 or Schedule 3, as the case may be.

History

Subsection 34(8) substituted by Act 476 of 1992 s5(b), shall have effect for the year of assessment 1992 and subsequent years of assessment.

Subsection 34(8) formerly read:

"(8) Where any deduction in respect of any matter is capable of being made under this section, no deduction in respect of that matter shall be made under section 33."